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101ST CONGRESS
2d Session

SENATE

REPORT
101-311

AMENDING THE WILD AND SCENIC RIVERS ACT TO STUDY THE ELIGIBILITY OF THE ST. MARYS RIVER IN THE STATES OF FLORIDA AND GEORGIA FOR POTENTIAL ADDITION TO THE WILD AND SCENIC RIVERS SYSTEM

JUNE 7 (legislative day, APRIL 18), 1990.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 76]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 76), amending the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the Wild and Scenic Rivers System, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ST. MARYS RIVER STUDY

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"(106) ST. MARYS RIVER, FLORIDA AND GEORGIA.—The segment from its headwaters to its confluence with the Bells River.".

(b) COMPLETION DATE.—Section 5(b) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(b)), is further amended by adding the following new paragraph at the end thereof:

"(8) The study of the river named in paragraph (106) of subsection (A) shall be completed not later than three years after the date of enactment of this paragraph. In carrying out the study, the Secretary of the Interior shall consult with the Governors of the States of Florida and Georgia or their representatives, representatives of affected local governments, and owners of land adjacent to the river. Such consultation shall include participation in the assessment of resource values and the development of alternatives for the protection of those resource values, and shall be carried out through public meetings and media notification. The study shall also include a recommendation on the part of the Secretary as to role the States, local governments and landowners should play in the management of the river if it were designated as a component of the National Wild and Scenic Rivers System.".

39-010

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Purpose of the Measure

The purpose of H.R. 76, as ordered reported, is to amend the Wild and Scenic Rivers Act to study a segment of the St. Marys River in Florida and Georgia for potential addition to the National Wild and Scenic Rivers System.

Background and Need

The headwaters of the St. Marys River form in the Okefenokee Swamp in Southern Georgia. The river meanders south and east until it empties into the Atlantic Ocean between Cumberland Island, Georgia and Amelia Island, Florida, approximately 130 miles downstream. A large segment of the river marks the northeast between northeast Florida and southeast Georgia.

The St. Marys begins in the Okefenokee Swamp, as a small creek. The river then continues downstream, gradually widening. By the time it empties into the Atlantic Ocean, the river has a width of over 1,000 feet. Although the St. Marys is a blackwater river, the quality of the water is considered good.

The river and river corridor are home to an abundant supply of wildlife, including over 60 species of fish, 35 different amphibians, 60 different reptiles, over 100 species of birds and 50 types of mammals. Over 40 rare or endangered species have been identified with the river or its corridor.

The river was included ~~in the~~ 1982 Nationwide Rivers Inventory prepared by the National Park Service, as having resource values which merited further study under the provisions of the Wild and Scenic Rivers Act. H.R. 76 would provide for a study to determine if this river segment qualifies for inclusion in the National Wild and Scenic Rivers System.

Legislative History

H.R. 76, introduced by Congressman Bennett of Florida, passed the House of Representatives by a voice vote on October 16, 1989. The Subcommittee on Public Lands, National Parks and Forests conducted a hearing on this measure on March 28, 1990.

At the business meeting on May 23, 1990, the Senate Committee on Energy and Natural Resources ordered H.R. 76, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on May 23, 1990, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 76 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	

Mr. Bingaman [1]
Mr. Wirth
Mr. Conrad [1]
Mr. Heflin [1]
Mr. Rockefeller
Mr. Akaka
Mr. McClure [1]
Mr. Hatfield [1]
Mr. Domenici
Mr. Wallop
Mr. Murkowski
Mr. Nickles
Mr. Burns
Mr. Garn [1]
Mr. McConnell [1]

[1] Indicates voted by proxy.

Committee Amendment

During the consideration of H.R. 76, the Committee adopted an amendment in the nature of a substitute. For the most part, this substitute incorporates the language of the Senate companion measure S. 1864. The Committee amendment directs that the segment of the St. Marys River from its headwaters to its confluence with the Bells River be studied for inclusion in the National Wild and Scenic Rivers System. The Committee amendment adds several provisions not in the House passed Act, but in the Senate version, to help ensure that the Secretary consult with various affected parties during the preparation of the study.

At the hearing on this measure, several landowners along the river segment expressed concern that the views of the local citizens would neither be sought nor considered during the wild and scenic river study. The Committee added these provisions in an effort to make clear to the Secretary and other parties that the views and concerns of those most affected by the study should be carefully considered during the study process. While the Committee did delete the provision in the Senate bill requiring "direct correspondence" with all parties as potentially overly burdensome, the Committee expects that all interested parties, especially State and local government officials and local landowners, will be consulted during the study and their views considered.

Summary of H.R. 76

H.R. 76 amends section 5(a) of the Wild and Scenic Rivers Act to provide for a study of that portion of the St. Marys River from its headwaters to the confluence with Bells River. The Act also amends section 5(b) of the Wild and Scenic Rivers Act, requiring that the Secretary of the Interior complete the study within three years and that the Secretary consult with State and local government representatives and affected private landowners during the preparation of the study.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 24, 1990.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 76, an act to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Mary's River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system, as ordered reported by the Senate Committee on Energy and Natural Resources, May 23, 1990. CBO estimates that enactment of H.R. 76 would result in additional costs totaling $200,000 over the three years, assuming appropriation of the necessary sums.

H.R. 76 would add approximately 115 miles of the St. Marys River in Florida and Georgia to the list of rivers to be studied for inclusion in the national wild and scenic rivers system. Based on information provided by the National Park Service and assuming appropriation of the necessary sums, CBO estimates that enactment of this legislation would result in costs of $20,000 in fiscal year 1991 and $90,000 in each of the fiscal years 1992 and 1993 for preparation of the study. Enactment of H.R. 76 would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

Robert D. Reischauer,
Director.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carring out H.R. 76. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 76, as reported.

Executive Communications

On March 6, 1990, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 76. These reports had not been received at the time the reprt on H.R. 76 was filed. When the report becomes

available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the appropriate agency at the Subcommittee hearing follows:

STATEMENT OF JAMES M. RIDENOUR, DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on this legislation.

We recommend enactment of either S. 1864 or H.R. 76.

Both bills would amend section 5(a) of the Wild and Scenic Rivers Act to designate a 115-mile stretch of the St. Marys River, Florida and Georgia, for study as a potential addition to the National Wild and Scenic Rivers System. The Senate bill provides specifically that the study shall be completed within 3 years from the date of enactment, that the Secretary shall consult with State and local governments and landowners, and that the Secretary shall include a recommendation as the role such governments and landowners play in the management of the river. H.R. 76, which passed the House of Representatives on October 16, 1989, does not contain these additional specific provisions.

The 120-mile St. Marys River, including its north prong, was included in the nationwide rivers inventory published by the National Park Service in 1982 as a river with potential for inclusion in the national system. It is described in the inventory as an attractive, clear, subtropical swamp river with varied and colorful flora and white sandbars. The river, which forms part of the boundary between Florida and Georgia, flows directly into the Atlantic ocean.

We estimate it would cost approximately $175,000 to conduct the study. The study could be completed within 2 years after funds became available. Of course, funding for the purpose would have to compete with other priorities in the normal budget process.

Mr. Chairman, I believe it would be useful to review the process by which a river is designated as part of the National Wild and Scenic Rivers System. Under section 4(a) of the Wild and Scenic Rivers Act, when a river is designated for study as is now proposed in S. 1864 and H.R. 76, the Secretary of the Interior studies the river and submits to the President a report on the suitability of the river for addition to the national system. The President then reports to the Congress his recommendation as to whether the river should be designated. Study reports must include the following.

—Maps and illustrations;
—Characteristics which do or do not make the area a worthy addition to the System;
—Current land ownership and use;
—Potential uses that would be enhanced or curtailed by designation;

—Proposed administering agency;
—Proposed cost-sharing with state and local agencies;
—Estimated acquisition and administration costs.

Before a study report is submitted to the President, it must be submitted to the Secretary of the Army, the Energy Regulatory Commission, and the Governors of the States in which the river is located. Comments and recommendations of these officials must be included in the transmittal to the President and Congress.

In making a determination as to whether a river is suitable for addition to the national system, the Department is guided by the Congressional Statement of Policy in the Wild and Scenic Rivers Act. Section 1(b) states that rivers and their immediate environments with "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values shall be preserved in free-flowing condition." The river suitability study is therefore a means of evaluating whether a study river encompasses outstandingly remarkable values.

While a river may be suitable, in terms of meeting the "outstandingly remarkable values" criteria, other data from the study—such as costs and other potential uses—can be used to determine if the river should be designated as a component of the System. The Secretary and the President will consider all aspects of the study in determining whether to recommend that Congress designate a river.

The effect of a study, such as that proposed in S. 1864 and H.R. 76, on resource development is twofold: first, Federal and Federally licensed water development projects are prohibited for a period equal to 3 fiscal years after the river is designated for study, plus an interim period until the report is submitted to Congress, plus 3 years for Congress to act; second, for that same period the minerals in all Federal lands within one quarter mile of the river are withdrawn from disposal under the 1872 mining law. The theory behind these provisions is to preserve Congressional options during the study period and for a reasonable time thereafter.

A study has no effect on private land, air or water quality, hunting, fishing, or trapping. A study has no effect on boating or commercial fishing.

In summary, Mr. Chairman, we believe the St. Marys River is worthy of a closer look to determine if it should or should not be recommended as a component of the national system.

Mr. Chairman, as I noted earlier, H.R. 76 does not contain the specific requirements for consultation with State and local governments and landowners, for public meetings, and for recommendations as to roles for local governments and landowners, that are in S. 1864. These requirements generally conform to our study process under the Wild and Scenic Rivers Act. We do not believe they are necessary, but neither do we object to them.

This concludes my prepared remarks, Mr. Chairman. I will be pleased to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the Act, H.R. 76, as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman):

ACT OF OCTOBER 2, 1968

(82 Stat. 910, as amended, 16 U.S.C. 1276)

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SEC. 5. (a) The following rivers are hereby designated for potential addition to the National Wild and Scenic Rivers System:

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(106) ST. MARYS RIVER, FLORIDA AND GEORGIA.—The segment from its headwaters to its confluence with the Bells River.

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(b)(1) * * *

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(8) The study of the river named in paragraph (106) of subsection (a) shall be completed not later than three years after the date of enactment of this paragraph. In carrying out the study, the Secretary of the Interior shall consult with the Governors of the States of Florida and Georgia or their representatives, representatives of affected local governments, and owners of land adjacent to the river. Such consultation shall include participation in the assessment of resource values and the development of alternatives for the protection of those resource values, and shall be carried out through public meetings and media notification. The study shall also include a recommendation on the part of the Secretary as to the role States, local governments and landowners should play in the management of the river if it were designated as a component of the National Wild and Scenic Rivers System.

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